

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

ROBERT D. LANDIS

Amateur Radio Operator and Licensee of Amateur
Radio Station N6FRV

EB Docket No. 06-149

File No. EB-05-IH-0973

ORDER TO SHOW CAUSE

Adopted: August 1, 2006

Released: August 1, 2006

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Order to Show Cause, and pursuant to sections 312(a) and (c) of the Communications Act of 1934, as amended (the "**Act**"), the Federal Communications Commission's Enforcement Bureau commences a hearing proceeding before a Commission administrative law judge. The purpose of this hearing is to determine whether Robert D. Landis, the licensee of the above-captioned Amateur Radio Station and Amateur Radio Operator license, is qualified to remain a Commission licensee in light of his felony convictions and whether his authorization should be revoked.

II. BACKGROUND

2. Mr. Landis received the license for Amateur Radio Station N6FRV on April 1, 1999. The license is **set** to expire on November 1, 2006. After receiving a complaint alleging that Mr. Landis had been convicted of child molestation and **was** living in a mental hospital, the Enforcement Bureau commenced an investigation. That investigation confirmed that on October 28, 1991, the Superior Court of California, County of Riverside, convicted Mr. Landis of two counts of a lewd act with a child under the age of fourteen years old. The Court sentenced Mr. Landis to a term of eleven years in state prison and fined him \$10,000.² On January 11, 2001, Mr. Landis reported a change of address from 313 E. Francis Street, Corona, California to 10333 El Camino Real, Atascadero, California. The latter address is the locale of the Atascadero State Hospital. At all times while Mr. Landis **was** an amateur licensee, the Commission has required that such licensees adhere to certain standards that are set forth in the Commission's character policy statement³

¹ See 47 U.S.C. §§ 312(a) and (c).

² *State of California v. Robert D. Landis*, Case CR41119 (Riverside County, October 31, 1991)(unpublished).

³ *Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Part I, the Rules of Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentation to the Commission by Applicants, Permittees, and Licensees, and the Reporting of Information Regarding Character Qualifications*, Policy Statement and Order, 5 FCC Rcd 3252 (1990) ("**1990 Character Order**"), *recon. on other grounds*, 6 FCC Rcd 3448 (1991), *modified on other grounds*, 7 FCC Rcd 6564 (1992). The Commission has consistently applied these broadcast character standards to applicants and licensees in the Amateur Radio Service. (continued....)

III. DISCUSSION

3. Section 312(a)(2) of the Act provides that the Commission may revoke any license if “conditions com[e] to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application.”⁴ The character of the applicant is among those factors that the Commission considers in its review of applications to determine whether the applicant has the requisite qualifications to operate the station for which authority is sought.⁵

4. In assessing character qualifications in broadcast licensing matters, the Commission considers, as relevant, “evidence of any conviction for misconduct constituting a felony.” The Commission has found that “[b]ecause all felonies are serious crimes, any conviction provides an indication of an applicant’s or licensee’s propensity to obey the law” and to conform to provisions of both the Act and the agency’s rules and policies.⁶ In addition, certain felonies involving egregious misconduct “might, of its own nature, constitute prima facie evidence that the applicant lacks the traits of reliability and/or truthfulness necessary to be a licensee.”⁷ As noted above, the Commission has consistently applied these broadcast character standards to applicants and licensees in the Amateur Radio Service.⁸ Thus, felony convictions, especially those involving sexual assault on children, raise questions regarding an amateur licensee’s qualifications.

5. The foregoing makes plain that Mr. Landis’s felony convictions⁹ raise serious questions as to whether he possesses the requisite character qualifications to be and to remain a Commission licensee and whether his captioned license should be revoked. Before revoking a license, the commission must serve the licensee with an order to show cause why revocation should not issue and must provide the licensee with an opportunity for hearing.¹¹ Consequently, we hereby designate the

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See, e.g., Schoenbohm v. FCC, 204 F.3d 243, 246-49 (D.C. Cir. 2000). *cert. denied*, 531 U.S. 968 (2000) (affirming the Commission’s denial of an amateur radio operator’s license renewal application based on the licensee’s felony conviction for computer fraud, as well as its lack of candor regarding such conviction) (“*Schoenbohm*”). *See also* *Roger Thomas Scaggs*, Order to Show Cause, 18 FCC Rcd 24367 (EB 2003) (finding that an amateur radio operator licensee’s murder conviction raised a material question of fact regarding his character and qualifications to remain a Commission licensee); *George E. Rodgers*, Hearing Designation Order, 10 FCC Rcd 3978 (WTB 1995) (finding that an amateur radio operator licensee’s felony conviction for indecent assault upon and corruption of minors raised a material question of fact regarding his character and qualifications to remain a Commission licensee); *Thomas M. Haynie*, Order to Show Cause and Suspension Order, 7 FCC Rcd 4994 (FOB 1992), *affirmed and licenses revoked*, 7 FCC Rcd 7291 (PRB 1992) (revoking general radiotelephone operator, amateur advanced class radio and amateur radio station licenses on the basis of licensee’s felony conviction for intentional interference with satellite communications); *Jerry E. Gastil*, Order to Show Cause, 4 FCC Rcd 3977 (PRB, FOB 1989) (finding that a general radio operator and amateur radio station licensee’s felony conviction for interfering with governmental radio communications raised serious questions regarding his character and qualifications to remain a Commission licensee).

⁴ 47 U.S.C. § 312(a)(2).

⁵ 47 U.S.C. § 308(b).

⁶ *See* 1990 Character Order, *supra* note 3, 5 FCC Rcd 3252 ¶ 4.

⁷ *Id.*

⁸ *See Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000).

⁹ *See, supra* note 3.

¹⁰ The facts of Mr. Landis’s felony convictions are *res judicata* and will not be retried in this hearing.

¹¹ 47 U.S.C. § 312(c).

matter for hearing before a Commission administrative law judge to provide Mr. Landis with an opportunity to demonstrate why his license should not be revoked.

IV. ORDERING CLAUSES

6. ACCORDINGLY, **IT IS ORDERED** that, pursuant to sections 312(a) and (c) of the Communications Act of 1934, as amended," and authority delegated pursuant to sections 0.111, 0.311, and 1.91(a), of the Commission's rules,¹³ Robert D. Landis is hereby **ORDERED TO SHOW CAUSE** why his authorization for Amateur Radio Advanced Class License N6FRV **SHOULD NOT BE REVOKED**. Robert D. Landis shall appear before an administrative law judge at a time and place to be specified in a subsequent order and provide evidence upon the following issues:

(a) to determine the effect of Robert D. Landis's felony convictions on his qualifications to be and to remain a Commission licensee; and

(b) to determine, in light of the evidence adduced pursuant to the foregoing issue, whether Robert D. Landis is qualified to be and to remain a Commission licensee and whether his Amateur Radio License N6FRV should be revoked.

7. **IT IS FURTHER ORDERED** that, pursuant to section 312(c) of the Communications Act of 1934, as amended, and section 1.91(c) of the Commission's rules,¹⁴ to avail himself of the opportunity to be heard and the right to present evidence in the hearing in this proceeding, Robert D. Landis, in person or by his attorney, **SHALL FILE** with the Commission, within thirty (30) days of the release of this Order to Show Cause, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the issues specified herein.

8. **IT IS FURTHER ORDERED** that, pursuant to section 1.92(c) of the Commission's rules, if Robert D. Landis fails to timely file a written appearance within the thirty (30)-day period, or has not filed a petition to accept, for good cause shown, a written appearance beyond the expiration of the thirty (30)-day period, the right to a hearing shall be deemed to be waived." Where a hearing is waived, the presiding administrative law judge shall, at the earliest practicable date, issue an order terminating the hearing proceeding and certifying the case to the **Commission**.¹⁶

9. **IT IS FURTHER ORDERED** that, pursuant to section 312(d) of the Communications Act of 1934, as amended," and section 1.91(d) of the Commission's rules," the burden of proceeding with the introduction of evidence and the burden of proof with respect to both of the issues specified above **SHALL BE** on the Enforcement Bureau.

10. **IT IS FURTHER ORDERED** that, the a copy of this **ORDER TO SHOW CAUSE** shall be sent, by Certified Mail, Return Receipt Requested, to Robert D. Landis, c/o the Atascadero State Hospital, 10333 El Camino Real, Atascadero, California 93422.

¹² 47 U.S.C. §§ 312(a) and (c).

¹³ 47 C.F.R. §§ 0.111, 0.311 and 1.91(a).

¹⁴ 47 C.F.R. § 1.91(c).

¹⁵ 47 C.F.R. § 1.92(a).

¹⁶ 47 C.F.R. § 1.92(c).

¹⁷ 47 U.S.C. § 312(d).

¹⁸ 47 C.F.R. § 1.91(d).

FEDERAL COMMUNICATIONS COMMISSION


Kris Anne Monteith
Chief, Enforcement Bureau